

## **MINUTES**

### **MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON HIGHWAYS AND TRANSPORTATION**

**Call to Order:** By **SEN. SAM KITZENBERG**, on January 18, 2001 at 3:15 P.M., in Room 317-A Capitol.

#### **ROLL CALL**

**Members Present:**

Sen. Ric Holden, Vice Chairman (R)  
Sen. Vicki Cocchiarella (D)  
Sen. Bob DePratu (R)  
Sen. Dan Harrington (D)  
Sen. Sam Kitzenberg (R)  
Sen. Jerry O'Neil (R)  
Sen. Gerald Pease (D)  
Sen. Glenn Roush (D)

**Members Excused:** Sen. Arnie Mohl, Chairman (R)  
Sen. Dale Berry (R)

**Members Absent:** None.

**Staff Present:** Connie Erickson, Legislative Branch  
Marion Mood, Committee Secretary

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: SB 153, 1/10/2001; SB 203,  
1/10/2001  
Executive Action: SB 150; SB 152; SB 153; SB 203

#### **HEARING ON SB 153**

**Sponsor:** SEN. JERRY O'NEIL, SD 42, Kalispell

**Proponents:** Dave Galt, Montana Dept. of Transportation

**Opponents:**           None

**Opening Statement by Sponsor:**

**SEN. JERRY O'NEIL** opened by saying that SB 153 is designed to assess a prorated interest penalty, at 1/30 of 1% per month for each day for late payment of motor fuel taxes rather than assessing a flat 10%. In addition, the minimum penalty would be raised from \$25 to \$100, keeping the fiscal impact basically at zero.

**Proponents' Testimony:**

**Dave Galt, Director-Designee, Department of Transportation**, said that this proposal came out of the meetings and discussions of the Fuel Tax Advisory Council appointed by Gov. Marc Racicot in an effort to improve the way fuel taxes are collected. He explained the ramifications of this bill, saying that for a \$100,000 fuel tax bill that was three days late, the penalty currently would be \$1,000, a flat 10%, whereas under this bill, the penalty would only be \$99, calculated on a daily basis. He reiterated that the minimum penalty for late filers was raised to \$100 from \$25, and that this applied to about 6 distributors annually, out of 125, giving them an incentive to file and pay on time.

**Closing by Sponsor:**

**SEN. O'NEIL** closed on SB 153.

**HEARING ON SB 203**

**Sponsor:**           **SEN. MACK COLE, SD 4, Hysham**

**Proponents:**       **Barry "Spook" Stang, Montana Motor Carriers Assn.**  
                          **Dave Galt, Department of Transportation**  
                          **Ben Havdahl, Multi-state Highway Transp. Agreement**

**Opponents:**       none

**Opening Statement by Sponsor:**

**SEN. MACK COLE, SD 4**, introduced SB 203, saying this bill would allow for more flexibility in the types of trucks that can use our highways. It would remove the restrictions regarding the

number of axles currently allowed, which is 9. It would not change the maximum gross weight allowed, nor the length of a truck, instead it would spread out this weight over a larger number of axles, resulting in less damage to our highways.

**Proponents' Testimony:**

***{Tape : 1; Side : A; Approx. Time Counter : 9.9}***

**Barry "Spook" Stang**, stated that the added flexibility this bill contained would allow Montana carriers to better compete with surrounding states. He offered **EXHIBIT(his14a01)**, dealing with the so-called bridge formula, which is the way the gross weight allowed is determined, considering the number of axles and their distance from each other.

**Dave Galt, Director-Designee, Montana Department of Transportation**, first stated that he had worked at MDT for 22 ½ years, then briefly for the Motor Carriers Association, until he came back to head the MDT. He explained that by allowing more than nine axles, it would allow more trucks to achieve the gross weight of 131,060 pounds which then would be distributed more evenly, resulting in less pavement damage. It would have a nominal impact on the bridge system, but the decrease in highway damage would outweigh this.

**Don Allen, Western Environmental Trade Association**, reiterated all the reasons and justifications, saying his organization therefore stood in support of this bill.

**Ben Havdahl, Multi-state Highway Transportation Agreement**, set up by statute involving ten Western states whose objective is to seek uniform standards between the ten jurisdictions, said this bill would make it uniform with Wyoming, Nevada, and Utah, also members of this Agreement.

**Questions from Committee Members and Responses:**

**SEN. JERRY O'NEIL** wondered where these axles would be placed.

**Dave Galt** answered that there was no standard set by Montana Law. The trucking industry determined that when applying the formula used in arriving at the gross weight. He felt it made the most sense to place them next to single axles, and adding one would often allow the truck to pick up another 5 or 6,000 pounds for only an additional 15-1800 pounds of tare weight. He said the department hoped that single axles would eventually be eliminated because it would make the most sense for the highway system.

**Closing by Sponsor:**

SEN. COLE closed on SB 203.

*{Tape : 1; Side : A; Approx. Time Counter : 19.4}*

**EXECUTIVE ACTION ON SB 150**

**Motion:** SEN. VICKI COCCHIARELLA moved that **AMENDMENT TO SB 150 DO PASS.**

**Discussion:**

**Ms. Erickson** stated that all the amendment did was to say that the penalty now was \$100, be it the first offense or the 10th. **EXHIBIT(his14a02).**

**Motion/Vote:** Motion carried unanimously. Vote count 8:0, with Sen. Mohl and Sen. Berry excused. **Motion/Vote:** SEN. COCCHIARELLA moved that **SB 150 AS AMENDED DO PASS. Motion carried unanimously.** Vote count as above.

**EXECUTIVE ACTION ON SB 152**

**Motion:** SEN. GLENN ROUSH moved that **AMENDMENT TO SB 152 DO PASS.**

**Discussion:**

**Ms. Erickson** stated that the department had been asked by the Committee to address their concerns regarding adjacent landowners in an amendment, and she drafted amendment #SB015201.ace, **EXHIBIT(his14a03).** It deals with the exchange of interest in real property. Currently, the department has to notify the adjacent landowners of a proposed land exchange before this exchange can be made, and if any of them wants to purchase, the department will have to follow the statutory procedures which then, in effect, would be a sale. The second change occurs in section (2), subsection (2), and it states that before the department can sell land to any governmental entity, it has to notify the adjacent landowners. If there is any interest, the adjacent landowners have to notify the Department which in turn then will sell the land according to provisions, i.e. public auctions. If one of the public entities is interested, they can bid on the land also.

**Questions from the Committee:**

**SEN. RIC HOLDEN** referred to the second amendment where it says the department has to be notified by registered letter of any interest to purchase and wondered if it could not just be a first class letter. **Gary Gilmore** said with a registered letter, the date mailed would be clearly visible which was not always the case with a postmark, and this was very important with regards to imposed deadlines. Even if the Department would not receive a letter till twelve or thirteen days later, it could see that the respondent mailed it within the imposed 10 day deadline. **SEN. HOLDEN** wanted to make sure that the Department enclosed in its notice that it expected a response by registered mail. **Gary Gilmore** answered that indeed they do put all the requirements into their notice. **SEN. O'NEIL** asked whether it would void a potential buyer's interest if he chose regular mail over registered. **Gary Gilmore** assured him that the Department would not want to dispel someone's interest because of technicalities. **SEN. ROBERT DePRATU** felt the ten day deadline was too restrictive, especially in case of the "snowbirds", ranchers who go south for the winter and proposed a 30 day deadline. **Gary Gilmore** said that would not be a problem. **SEN. VICKI COCCHIARELLA** took issue with the wording "within ten days of receipt of the notice" and said it left response time wide open. If she was gone for a long period of time and did not get her mail till months later, would she still have ten days to respond. **Gary Gilmore** stated that *{Tape : 1; Side : B; Approx. Time Counter : 0.1}* theoretically that was correct and added that it might still be quicker than what they face now, spending so much time trying to locate "snowbirds". **SEN. O'NEIL** asked what would happen if the person was dead. **Gary Gilmore** responded that then their estate would step up. **SEN. DePRATU** asked if Ms. Erickson could take a look at a 30 day deadline. **Substitute Motion:** **SEN. HOLDEN** made a **substitute motion** that **AMENDMENT TO SB 152 BE AMENDED**, to change the "10" to a "30".

**Discussion:**

**SEN. O'NEIL** wondered if we could make it a definite time frame in which to respond to avoid a situation where an interested buyer is gone for a long period of time. **SEN. DAN HARRINGTON** brought up the fact that the 30 days start when someone signs for a registered letter, be it the landowner or his kids. **SEN. DePRATU** felt it was our obligation to make things reasonable for the citizens but believed that the department had the desire and obligation to get some of those parcels of land back onto the tax rolls or make them available for civic use. He felt it was asked too much to handle every type of exception, and he supported the substitute motion.

**Vote:** Motion carried unanimously.

**Motion/Vote:** SEN. COCCHIARELLA moved that **AMENDMENT TO SB 152 DO PASS. Motion carried unanimously.**

**Motion/Vote:** SEN. GLENN ROUSH moved that **SB 152 AS AMENDED DO PASS. Motion carried unanimously.** Vote count was 8:0, with Senators Mohl and Berry excused.

**EXECUTIVE ACTION ON SB 153**

**Motion:** SEN. O'NEIL moved that **SB 153 DO PASS.**

**Motion/Vote:** SEN. KITZENBERG moved that **SB 153 DO PASS. Motion carried unanimously.** Vote count was 8:0, with Senators Mohl and Berry excused.

**EXECUTIVE ACTION ON SB 203**

**CHAIRMAN KITZENBERG** offered SB 203 for consideration. **Motion:** SEN. COCCHIARELLA moved that **SB 203 DO PASS.**

**Motion/Vote:** SEN. KITZENBERG moved that **SB 203 DO PASS. Motion carried unanimously.** Vote count was 8:0, with Senators Mohl and Berry excused.

**ADJOURNMENT**

Adjournment: 3:55 P.M.

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SEN. ARNIE MOHL, Chairman

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MARION MOOD, Secretary

AM/MM

**EXHIBIT** (his14aad)